

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**FINAL STATEMENT OF REASONS****CALIFORNIA CODE OF REGULATIONS**

TITLE 8: Chapter 4, Subchapter 7, Group 4, Article 24, Sections 3637, 3638, 3639, 3640, 3642, and 3646 of the General Industry Safety Orders.

Mast-Climbing Work Platforms**MODIFICATIONS AND RESPONSE TO COMMENTS RESULTING FROM
THE 45-DAY PUBLIC COMMENT PERIOD**

There are no modifications to the information contained in the Initial Statement of Reasons except for the following substantive and nonsubstantive modifications that are the result of public comments and/or Board staff evaluation.

Section 3638. General Requirements, Subsection (d).

Subsection (d), as originally noticed, prescribed that employees are to be instructed in the proper use of work platforms and aerial devices in accordance with the manufacturer's operating instructions and Section 3203, Injury and Illness Prevention Program (IIPP). In response to an advisory opinion received from Federal OSHA, Region IX, the Board proposes to add greater clarity to the training standards by amending Sections 3638(d) and 3646. The Board proposes to modify subsection 3638(d) to read as follows: "Employees shall be instructed in the proper use of the platform in accordance with this Article, the manufacturer's operating instructions and Section 3203, Injury and Illness Prevention Program." A proposed amendment to Section 3646 will specify topics for inclusion in the employee training program. The purpose of these modifications is to inform the regulated public that Article 24 contains applicable training standards in addition to those found in the manufacturer's operating instructions and the IIPP. These modifications are made in response to an advisory opinion from Federal OSHA.

Section 3646. Operating Instructions (Elevating Work Platforms), Subsection (c).

Subsection (c) currently prescribes that elevating work platforms shall be assembled, and used only by personnel who have been trained in their use. Subsection (c) also currently prescribes that units shall be inspected for damaged and defective parts before use. The Board proposes to strike the first part of the subsection and locate training provisions in a new subsection (*I*) which will contain vertical (industry-specific) training standards to supplement horizontal (industry-wide) training requirements found in Section 3203, Illness and Injury Prevention Program. The purpose of this modification is to separate training requirements from inspection requirements and to clarify training requirements for elevating work platforms by locating all training

provisions in a dedicated subsection. This modification is made in response to an advisory opinion from Federal OSHA.

Section 3646. Operating Instructions (Elevating Work Platforms), Subsection (k).

Subsection (k), as originally proposed, prescribed that elevating work platforms, and mast-climbing work platforms shall not be used as construction personnel hoists or material hoists. The Board proposes to strike “elevating work platforms” from this proposed subsection as the proposed restriction is only intended to apply to mast-climbing work platforms. This is because mast-climbing work platforms are not designed or intended for use as a construction personnel hoist. Similar restrictions on other types of elevating work platforms were not intended, nor are they supported by national consensus standards (ANSI A92 series). The purpose of this modification is to clarify that the restriction on use as a construction personnel hoist or material hoist only applies to mast-climbing work platforms. The necessity for this modification is for consistency with national consensus standards.

Section 3646. Operating Instructions (Elevating Work Platforms), Subsection (k), Exception 2.

Subsection (k), Exception 2, as originally proposed, would permit the transfer of tools, materials and/or workers between a mast-climbing work platform and structure at the level where the work is being performed when personnel use a personal fall protection system. A modification is proposed to change “level” to “location.” This is a non-substantive clarification consistent with the usage of terms in Article 24, Section 3636, Applications, which states that “this Article applies to elevating work platforms and vehicle mounted or self-propelled aerial devices which are used to position personnel, along with their tools and necessary materials, to work locations.” [Underline added] The purpose and necessity for the modification is to provide clarity and to be consistent with terminology used in the application statement, Section 3636.

Section 3646. Operating Instructions (Elevating Work Platforms), Subsection (l).

This is a new subsection which was added in response to the Federal OSHA advisory opinion discussed below in “Written Comments.” The Board does not subscribe to OSHA’s opinion that all aerial devices in the ANSI A92 series are types of scaffolds, and therefore that specific training is required as outlined in 29 CFR 1926.454. However, in order to satisfy the OSHA advisory opinion, the Board proposes subsection (l) to clarify training standards applicable to elevating work platforms. The proposed subsection clarifies that the provisions of the manufacturer’s operating instructions and the Section 3203 IIPP are applicable and then gives examples of subjects relevant for elevating work platforms. The purpose of this new subsection is to clarify training requirements for elevating work platforms. This modification is made in response to an advisory opinion from Federal OSHA.

Summary and Response to Oral and Written Comments:

I. Written Comments

Mr. Frank Strasheim, Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration, Region IX, by letter dated June 7, 2005.

Comment:

OSHA's consideration of all aerial devices in the ANSI A92 series as a type of scaffold under the construction standard requires specific training as outlined in 29 CFR 1926.454. Although the proposed standard requires employee instruction in the proper use of the platform in accordance with the manufacturer's operating instructions and the IIPP, Region IX opines that these provisions do not meet the obligations of section 1926.454. Region IX commented that ANSI Standard A92.9 does not cover certain requirements of 1925.454 and other portions of ANSI A92.9 that correspond to section 1926.454 are not required to be placed in the manufacturer's operating instructions. Furthermore, in the opinion of Region IX, the IIPP does not address certain elements of 1926.454. Region IX has identified these items as necessary training components to ensure employee safety during use of scaffolds utilized in construction activities. Therefore, Region IX is of the opinion that the training portion of the proposed standard is not as effective as the federal standard.

Response:

The Board notes that since OSHA has no specific standards for mast-climbing work platforms, it appears they are applying training standards for scaffolds. Therefore, the Board proposes to modify subsections 3638(d) and 3646(c) and to add subsection 3646(l) to add clarity to training standards for elevating work platforms by including relevant training provisions of 1926.454. The Board notes that these proposed industry-specific (vertical) training standards will serve as a vertical training module to supplement comprehensive (horizontal) training standards found in Title 8, Section 3203 (IIPP).

The Board therefore accepts the Region IX advisory opinion to the extent that modifications are proposed to include training provisions of 1926.454 which are relevant to elevating work platforms and which are not specifically addressed at the present time.

The Board thanks Region IX for their participation in the rulemaking process.

II. Oral Comments

The proposal was heard at the June 16, 2005, Public Hearing in Irvine, California. No oral comments were received.

ADDITIONAL DOCUMENTS RELIED UPON

None.

ADDITIONAL DOCUMENTS INCORPORATED BY REFERENCE

None.

DETERMINATION OF MANDATE

These standards do not impose a mandate on local agencies or school districts as indicated in the Initial Statement of Reasons.

ALTERNATIVES CONSIDERED

The Board invited interested persons to present statements or arguments with respect to alternatives to the proposed standard. No alternative considered by the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the adopted action.